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Extreme poverty and human rights

Report by the Secretary-General

The Secretary-General has the honour to transmit to the Members of the General Assembly the report submitted by Magdalena Sepúlveda Carmona, Special Rapporteur on extreme poverty and human rights, in accordance with resolution 17/13 of the Human Rights Council.

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Report of the Special Rapporteur on extreme poverty and human rights

Summary

In the present report, the Special Rapporteur on extreme poverty and human rights analyses several laws, regulations and practices that punish, segregate, control and undermine the autonomy of persons living in poverty. Such measures have been adopted with increasing frequency over the past three decades, intensifying in recent years owing to the economic and financial crises, and now represent a serious threat to the enjoyment of human rights by persons living in poverty.

The ways in which States and social forces penalize those living in poverty are interconnected and multidimensional, and cannot be analysed in isolation. For the purpose of this report, the Special Rapporteur identifies the following four areas of concern: (a) laws, regulations and practices which unduly restrict the performance of life-sustaining behaviours in public spaces by persons living in poverty; (b) urban planning regulations and measures related to the gentrification and privatization of public spaces that disproportionately impact persons living in poverty; (c) requirements and conditions imposed on access to public services and social benefits which interfere with the autonomy, privacy and family life of persons living in poverty; and (d) excessive and arbitrary use of detention and incarceration that threatens the liberty and personal security of persons living in poverty.

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I. Introduction

1. The present report is submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, in accordance with Human Rights Council resolution 17/13. It addresses several laws, regulations and practices, which have become increasingly common in developed and developing countries, that punish, segregate, control and undermine the autonomy of persons living in poverty.

2. The report benefits from papers presented and opinions expressed at an international expert meeting hosted by the International Council on Human Rights Policy in Geneva on 17 and 18 March 2011, which brought together human rights experts, academics, civil society and representatives of United Nations entities from all regions, each of whom provided valuable input into the Special Rapporteur's report.[1]

3. The report uses the term "penalization measures" to refer generally to policies, laws and administrative regulations that punish, segregate, control and undermine the autonomy of persons living in poverty. These measures are homogenous neither in their design nor their effect; they vary significantly in their intent and impact across and within regions, States, provinces and municipalities. Some result in the outright criminalization, prosecution and incarceration of persons living in poverty, while others excessively regulate and control various aspects of their lives. Some have punitive effects such as the imposition of heavy fines, loss of child custody, disentitlement from social benefits and infringement on rights to privacy and autonomy. Some measures explicitly target persons living in poverty while others are neutral laws, policies and practices which, though directed at all individuals, have a disproportionate impact on those living in poverty.

4. The report analyses some of these measures to demonstrate their impact on the enjoyment of human rights by those living in poverty. The report explains how these measures are the result of deeply entrenched prejudices and stereotypes that have permeated public policies. It emphasizes that the negative impacts of these measures overlap and reinforce one another, exacerbating and perpetuating poverty. The report applies a human rights framework to demonstrate that, while poverty may not in itself be a violation of human rights, often States' actions or omissions that cause, exacerbate or perpetuate poverty amount to violations of human rights. In this context, penalization measures represent a serious threat to States' observance of their human rights obligations.

II. The realities of poverty: stigmatization, discrimination, penalization, exclusion

5. States have long recognized that poverty is a complex human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other economic, civil, cultural, political and social rights.[2] Poverty is not an autonomous choice, but rather a multifaceted situation from which it may be

[1] For more information about the meeting, please see www.ichrp.org/en/projects/162.

[2] E/C.12/2001/10, para. 8.

difficult, if not impossible, to escape without assistance. Persons living in poverty are not to blame for their situation; accordingly, States must not punish or penalize them for it. Rather, States must adopt wide-reaching measures and policies designed to eliminate the conditions that cause, exacerbate or perpetuate poverty, and ensure the realization of all economic, social, cultural, civil and political rights of those living in poverty.

6. Penalization policies reflect a serious misunderstanding of the realities of the lives of the poorest and most vulnerable and ignorance of the pervasive discrimination and mutually reinforcing disadvantages that they suffer.

7. Penalization measures respond to discriminatory stereotypes that assume that persons living in poverty are lazy, irresponsible, indifferent to their children's health and education, dishonest, undeserving and even criminal. Persons living in poverty are often portrayed as authors of their own misfortune, who can remedy their situation by simply "trying harder". These prejudices and stereotypes are often reinforced by biased and sensationalist media reports that particularly target those living in poverty who are victims of multiple forms of discrimination, such as single mothers, ethnic minorities, indigenous people and migrants. Such attitudes are so deeply entrenched that they inform public policies and prevent policymakers from addressing the systemic factors that prevent persons living in poverty from overcoming their situation.

8. As a consequence of the discrimination and stigma that they suffer, persons living in poverty often develop fear of and even hostility towards public authorities, and have little confidence in the institutions that should assist them. Too often, they are treated with disrespect or condescension by policymakers, civil servants, social workers, law enforcement officials, teachers and health-care providers, who may fail to recognize and support the efforts that persons living in poverty are making to improve their lives.

9. Stigmatization and prejudicial attitudes generate a sense of shame, discouraging persons living in poverty from approaching public officials and seeking the support that they need. Not wishing to expose themselves to even greater social discrimination by accessing services that are stigmatized by society, persons living in poverty may refrain from claiming entitlements such as food vouchers or subsidies, accessing public housing or attending free health clinics. This further segregates and excludes them, strengthening the vicious cycle that perpetuates poverty through generations.

10. In every country, developed or developing, historical social divisions and power structures ensure that the poorest and most excluded are at a constant disadvantage in their relations with State authorities. Asymmetries of power mean that persons living in poverty are unable to claim rights or protest their violation. They may face obstacles in communicating with authorities owing to illiteracy, lack of information or language barriers, a situation which is particularly acute for migrants, indigenous peoples, ethnic minorities and persons with disabilities. As a result, they are less likely to know and understand their rights and entitlements or to report infringements and abuses.

11. In this respect, women are particularly vulnerable to penalization measures. Due to structural discrimination, women have less representation in structures of power and therefore are disproportionately disadvantaged in their dealings with

State authorities and less able to claim their rights. Often penalization measures have a much more onerous impact on women than men, given that women are overrepresented among the poor, have less access to education, employment and economic resources, and assume the principal burden of care and domestic work.

12. A significant obstacle in breaking this cycle of penalization and poverty is the inability of persons living in poverty to access legal assistance, as they are unable to afford private legal representation and legal aid is often unavailable or inadequate. Without access to competent, comprehensive legal assistance, the poorest and most excluded are further disadvantaged in their dealings with authorities, not only when they are facing criminal charges, but also with respect to administrative procedures such as child protection cases, benefit fraud matters or eviction and immigration proceedings.

13. When persons living in poverty do not have access to legal representation or advice, particularly in circumstances where they are unfamiliar with complex legal language, they are more likely to receive and accept unfair or unequal treatment. There is a higher likelihood that they will be detrimentally affected by corruption or asked to pay bribes, will be detained for longer periods of time and, if facing trial, will be convicted. Even when legal assistance is available, discrimination and linguistic barriers are powerful obstacles in the way of those seeking access to justice and redress.

III. The international human rights framework

A. Equality and non-discrimination

14. Non-discrimination and equality are core elements of the international human rights normative framework.[3] These principles require that those in equal circumstances be treated equally in law and practice. Under human rights law, not every distinction or difference in treatment will amount to discrimination. A distinction is compatible with the principle of equality when it has an objective and reasonable justification; it must pursue a legitimate aim, and there must be a reasonable relationship of proportionality between the means employed and the aim sought.[4] Thus, differential treatment (distinction, exclusion, restriction or preference) of persons living in poverty must comply with the criteria mentioned above in order to be justified under human rights law.

[3] See, for example, Universal Declaration of Human Rights, art. 2; International Covenant on Economic, Social and Cultural Rights, art. 2; International Covenant on Civil and Political Rights, arts. 2 and 26; International Convention on the Elimination of All Forms of Racial Discrimination, art. 1; Convention on the Elimination of All Forms of Discrimination against Women, art. 2; Convention on the Rights of the Child, art. 2; Convention on the Rights of Persons with Disabilities, art. 5.

[4] See, for example, Committee on Economic, Social and Cultural Rights, general comment No. 20; Human Rights Committee, general comment No. 18; Committee for the Elimination of Racial Discrimination, general recommendation No. 14; Marckx v. Belgium, European Court of Human Rights, Application No. 6833/74, Judgement of 13 June 1979, para. 33; Inter-American Court of Human Rights, Advisory Opinion No. 4, "Proposed amendments to the naturalization provisions of the Constitution of Costa Rica", OC-4/84 of 19 January 1984, para. 57.

15. Moreover, certain forms of preferential treatment, in the form of affirmative actions for the benefit of vulnerable and disadvantaged groups, are not considered discriminatory because they are designed "to diminish or eliminate conditions and attitudes which cause or perpetuate substantive or de facto discrimination", encouraging an equal enjoyment of rights.[5] Therefore, affirmative actions in favour of persons living in poverty directed towards addressing social and economic imbalances are not only permitted, but are compulsory for States under human rights law. There is discrimination only if a difference in treatment has no legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim to be realized.

16. A discriminatory intent is not a necessary element of discrimination.[6] Therefore, any measure with the purpose or effect of nullifying or impairing the equal enjoyment of human rights constitutes a violation of States' human rights obligations.

17. The common element unifying the penalization measures examined in this report is their failure to sufficiently satisfy these criteria. They all directly or indirectly discriminate against persons living in poverty, with the effect of nullifying or impairing the enjoyment or exercise of their human rights and fundamental freedoms.

18. Discrimination is prohibited on a number of enumerated grounds, including economic and social status as implied in the phrase "other status", which is included as a ground of discrimination in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.[7] Penalization measures target individuals because their income, appearance, speech, address or needs identify them as poor. Thus, such measures clearly constitute discrimination on the basis of economic and social status.

B. Legitimate restrictions on human rights

19. Human rights law permits States to limit some rights, on the basis that such limitations are justified in the interests of public security, safety or order; public health; or the protection of the rights and freedoms of others. In order for a limitation to be legitimate under human rights law, it must comply with numerous safeguards: it must be "determined by law", "compatible with the nature of these rights", "solely for the purposes of promoting general welfare" and "necessary in a

[5] Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 8.

[6] Committee on Economic, Social and Cultural Rights, general comment No. 20, paras. 10 and 12; Human Rights Committee, general comment No. 18, para. 9; Committee on the Elimination of Racial Discrimination, general recommendation No. 14, para. 1; Committee on the Elimination of Discrimination against Women, general recommendation No. 28, para. 16.

[7] In its jurisprudence, the Human Rights Committee has reiterated that the grounds for discrimination are not exhaustive and that "other status" has an open-ended meaning. See also Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 35. Economic status and social condition are explicitly included as grounds of discrimination in article 1 of the American Convention on Human Rights. Other prohibited grounds for discrimination such as "property" and even "social origin" may also be relevant in addressing issues of poverty.

democratic society".[8] Permissible limitations must also comply with general principles of human rights law, and must thus be non-discriminatory, reasonable and proportionate.[9] Compliance with these principles requires, for example, that any restrictive measures must be appropriate means of achieving the aims pursued, and that limitations must not be more severe than is necessary for the attainment of the aim sought.

20. Considering that the primary objective of the human rights framework is to protect the rights of individuals rather than permit the imposition of limitations by the State, States have the burden of demonstrating that the restrictions imposed on the exercise of rights by those living in poverty comply with all these criteria and are therefore legitimate, reasonable and proportionate to the aim sought. Restrictions that are not in conformity with these criteria constitute a violation of human rights norms.

21. States often draw on the enumerated permissible limitations to justify the adoption of penalization measures. However, in practice, penalization measures are motivated by a combination of factors. Some measures aim to remove any image of poverty, such as the removal of homeless persons and beggars from urban centres, in order to beautify the city and attract investment and development. Other measures are justified as necessary to reach the "deserving poor", or to satisfy critics of "lenient" social policies and therefore gain political support for an initiative. From a human rights perspective, these justifications require cautious analysis to assess whether or not the penalization measure pursues a legitimate aim under human rights law and is proportionate to that aim. States must not impose more restrictive measures than are required for the achievement of the purpose of the limitation.

22. Particular attention should be paid to economic justifications for penalization measures. Economic reasons are not only outside the range of limitations permissible under human rights law, they also contradict the reality that the implementation of penalization measures is extremely costly. Penalization measures necessitate greater numbers of law enforcement and public service staff; increase the number of individuals in the penal and criminal justice systems; and require considerable outlays on administrative monitoring procedures, such as means testing and benefit surveillance.

23. In many cases, the cost of employing reactive penalization measures greatly outweighs the costs that would be incurred in addressing the root causes of poverty and exclusion. If resources dedicated to policing, surveillance and detention were instead invested in addressing the causes of poverty and improving access to public services, including social housing, States could drastically improve the lives of persons living in poverty and ensure that the maximum available resources are

[8] International Covenant on Civil and Political Rights, arts. 18, 19, 21 and 22; International Covenant on Economic, Social and Cultural Rights, art. 4; European Social Charter, art. 31.1; Protocol of San Salvador, art. 5. The content of these requirements has been developed extensively elsewhere. See, for example, the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4, annex) and the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/CN.4/1987/17, annex).

[9] See principles 10 and 16 of the Siracusa Principles and principle 60 of the Limburg Principles (note 8 above).

dedicated to increasing the levels of enjoyment of economic, social and cultural rights.[10]

C. Right to participate in decision-making

24. Penalization measures are invariably designed and implemented without any meaningful dialogue with persons living in poverty. Their experiences and needs are almost always ignored, and this strengthens their sense of powerlessness. Thus, ensuring the right to effective and meaningful participation in decision-making by persons living in poverty is an essential prerequisite to the elimination of discrimination and poverty.

25. A human rights approach to poverty eradication dictates an active, free, informed and meaningful participation of persons living in poverty at all stages of the design, implementation and monitoring of policies affecting them. Genuine participation should not only be understood as an affirmation of the right of every individual and group to take part in the conduct of public affairs,[11] but also as an instrumental part of the solution to poverty and social exclusion. The empowerment of persons living in poverty through participation is also a means to promote social inclusion and to ensure that public policies are designed to meet the particular needs of the poorest segments of society.

D. Privatization and the obligations of the State

26. There is a clear trend, across developed and developing countries, towards the privatization and outsourcing of some activities traditionally undertaken by the State. While privatization has the potential to decrease costs, increase efficiency, and therefore improve the provision of services, it may also create significant obstacles to access to public services by the poorest and most vulnerable. When States hand over the administration of welfare systems, health systems, housing facilities and detention centres to private entities which are seeking an economic profit and may not be appropriately supervised and controlled by the State, they put at risk the ability of individuals to access necessary services, and create incentives that might have detrimental effects for persons living in poverty. Without mechanisms to ensure accountability and transparency, private entities may prioritize profit over people and are not responsible for their failures.

27. States must not consider privatization to be a means by which they can evade their human rights responsibilities. While international human rights law does not restrict the privatization of public services, it nevertheless stipulates that when public services are outsourced to private companies, States remain responsible for ensuring quality, affordability and coverage and have the duty to protect individuals against abuses committed by these companies.[12]

[10] International Covenant on Economic, Social and Cultural Rights, art. 2(1).

[11] Universal Declaration of Human Rights, art. 21; International Covenant on Civil and Political Rights, art. 25.

[12] Committee on Economic, Social and Cultural Rights, general comment No. 14.

IV. Penalization measures that negatively affect the enjoyment of human rights

28. This section outlines some examples of the consequences of penalization measures for the enjoyment of a number of human rights, in order to demonstrate how such measures have numerous complex and interlinked ramifications for persons living in poverty.

A. Laws, regulations and practices that restrict behaviours in public spaces by persons living in poverty

29. Increasingly, States are implementing laws, regulations and practices limiting the behaviour, actions and movements of people in public space, which greatly impede the lives and livelihoods of those living in poverty. These measures vary considerably across and within States, with the common denominator being the penalization of actions and behaviours which are considered "undesirable" or a "nuisance" in public spaces. States justify these measures by classifying the prohibited behaviours as dangerous, conflicting with the demands of public safety or order, disturbing the normal activities for which public spaces are intended, or contrary to the images and preconceptions that authorities want to associate with such places.[13]

30. Criminal or regulatory measures (e.g. ordinances) that make vagrancy and begging unlawful are becoming increasingly common across developed and developing countries. These laws take a number of forms, from legislation that prohibits the solicitation of money in any public space to that which prohibits begging at night or in an "aggressive manner".[14] Some of these laws have a broad application, extending to the performance of any activity which might elicit money, such as performing or dancing, or exposing a wound or a deformity. In some States, it is even illegal for a person just to be in a public place and have no visible means of subsistence, such that it is likely that they stay alive by begging.[15]

31. It is obvious that these laws and regulations have a disproportionate impact on persons who live in poverty. When they are unable to access sufficient support and assistance from the State, persons living in poverty may have no other option than to beg in order to stay alive. To punish them for their actions in circumstances where they have no other means of survival is clearly a disproportionately punitive measure.

32. Bans on begging and vagrancy represent serious violations of the principles of equality and non-discrimination.[16] Such measures give law enforcement officials wide discretion in their application and increase the vulnerability of persons living in poverty to harassment and violence. They serve only to contribute to the

[13] Antonio Tosi, "Homelessness and the control of public space: criminalising the poor?", *European Journal of Homelessness*, vol. 1 (December 2007), p. 226.

[14] See, for example, section 2, Safe Streets Act 1999 (Ontario, Canada); section 2(1), Safe Streets Act 2004 (British Columbia, Canada) and section 3, Vagrancy Act 1824 (United Kingdom).

[15] Section 2(1), Bombay (Prevention of Begging) Act 1959.

[16] International Covenant on Civil and Political Rights, art. 26.

perpetuation of discriminatory societal attitudes towards the poorest and most vulnerable.

33. With increasing frequency, States are also penalizing the performance of certain behaviours and actions which are associated with living on the street such as sleeping, sitting, lying, littering, lodging, camping or storing belongings in public spaces; public drunkenness, public urination; or jaywalking.[17] Often these regulations are vaguely worded, allowing law enforcement agencies extensive discretion and enforcement authority, which threatens to violate legal and constitutional safeguards. By making these activities or behaviours illegal, States increase the exposure of persons living in poverty to abuse, harassment, violence, corruption and extortion by both private individuals and law enforcement officials.

34. While these regulations are not explicitly addressed towards persons living in poverty, they affect them disproportionately. Owing to their lack of or limited access to housing, persons living in poverty rely more heavily on public spaces for their daily activities. Thus, individuals who have no choice but to live on the street find that daily life-sustaining activities can put them in danger of criminal sanctions. Although these types of measures are ostensibly neutral, studies show that authorities target those living in poverty, particularly homeless persons.[18] This disproportionate application clearly violates the obligation to ensure equality and non-discrimination in the implementation of all laws and policies.

35. Often the underlying motivation of these measures is to reduce the visibility of poverty in the city and attract investments, development and (non-poor) citizens to the city centres. These aims are not legitimate under human rights law and they do not justify the severe sanctions that are often imposed through these regulations.

36. These laws are being implemented in a context in which the economic and financial crises have resulted in an unprecedented increase in foreclosures and evictions, forcing a growing number of families to live on the streets. Instead of using public funds to assist these families, States are instead carrying out costly operations to penalize them for their behaviour. Where there is insufficient public infrastructure and services to provide families with alternative places to perform such behaviours, persons living in poverty and homelessness are left with no viable place to sleep, sit, eat or drink. These measures can thus have serious adverse physical and psychological effects on persons living in poverty, undermining their right to an adequate standard of physical and mental health and even amounting to cruel, inhuman or degrading treatment.[19]

[17] For example, of 235 United States municipalities surveyed, 33 per cent prohibited camping and 30 per cent prohibited sitting or lying in certain public places. See National Law Center on Homelessness and Poverty and National Coalition for the Homeless, "Homes not handcuffs", July 2009. Available from www.nlchp.org.

[18] James Farrell, "Moving on, moving out: police powers and public spaces in Australia", to be published in August 2011 by openDemocracy (www.opendemocracy.net).

[19] Universal Declaration of Human Rights, art. 5; International Covenant on Economic, Social and Cultural Rights, art. 12; International Covenant on Civil and Political Rights, art. 7. The argument that the punishment of homeless people for behaviours that they have no choice but to perform in public may amount to cruel and inhuman treatment has been accepted in a number of United States jurisdictions. See Pottinger v. City of Miami 76 F.3d 1154 (11th Cir. 1996); Johnson v. City of Dallas 61 F.3d 442 (5th Cir. 1995).

37. In several countries, the negative impact of these regulations is further exacerbated by laws which make illegal actions to assist those living in the street. In several States, specific legislation limits the actions of civil society organizations[20] or bans the provision of assistance in certain circumstances. For example, in some municipalities, it is illegal to share food with groups of people in downtown parks without a permit, creating a barrier for charities and other organizations that provide food to homeless persons.[21] The criminalization of advocates, activists and civil society organizations violates several human rights such as the freedom of association, expression and assembly, and undermines social cohesion.

38. Persons living in poverty are also disproportionately subjected to police powers to impose anti-social behaviour and move-on orders, and public safety laws allowing police to "stop and search" individuals. These measures are often wide-reaching and subject to considerable discretion on the part of police officers, who make subjective judgements that do not need to meet a high burden of proof.[22] Overwhelmingly, these regulations are targeted at the marginalized and most vulnerable and the areas and communities in which they live. Of persons living in poverty, those subject to multiple forms of discrimination are even more frequently targeted.[23] These measures respond to and reinforce discriminatory attitudes about the likelihood of persons living in poverty partaking in criminal activity, and perpetuate the stigmatization of poverty. For example, in one country, rules for the use of the capital city metro allow police to remove people who are disturbing other passengers by, inter alia, wearing "filthy clothing".[24]

39. Of particular concern are penalization measures that target those who seek to gain a living through street vending. In many States, street vending is severely restricted[25] or illegal,[26] as is buying from a street vendor.[27] Research shows that street vendors turn to vending because they have no other form of income, have low levels of education and lack employment opportunities.[28] Street vending is a means for the poorest and most vulnerable to earn money to support their families and their

[20] Mandeep Tiwana and Netsanet Belay, "Civil society: the clampdown is real — global trends 2009-2010", Civicus World Alliance for Citizen Participation, December 2010. Available from www.civicus.org.

[21] See, for example, section 18A.01 of the Code of the City of Orlando, Florida, United States. See also "Homes not handcuffs" (note 17 above), p. 11.

[22] See George Lavendar, "Gang injunctions just criminalize poor communities", *The Guardian*, 1 February 2011.

[23] For example, black individuals in one country are six times more likely, and Asian individuals twice as likely, to be subject to police "stop and search" powers than white individuals. See "Police stop and search powers 'target minorities'", BBC News, 15 March 2010.

[24] Budapest Transport Company (BKV Zrt), "Terms and conditions of travelling", available at www.bkv.hu/en/travel_conditions/terms_and_conditions_of_travelling.

[25] This is the case, for example, in New York City (see Jennifer Lee, "Street vending as a way to ease joblessness", *The New York Times*, 29 April 2009) and Durban (see Blessing Karumbidza, "Criminalizing the livelihoods of the poor: the impact of formalising informal trading on female and migrant traders in Durban", Socio-economic Rights Institute of South Africa, 2011).

[26] For example, in some municipalities in Thailand (Cleanliness and Order of the City Act 1992 and Public Health Act 1992) and Cambodia (Sub-decree on Public Order). See Kyoko Kusakabe, "Policy issues on street vending: an overview of studies in Thailand, Cambodia and Mongolia", International Labour Office, 2006.

[27] Bosco R. Asiimwe, "Nyarugenge to penalise vendors' clients", *Rwandan New Times*, 3 August 2011.

[28] Kusakabe (note 26 above), p. 23.

livelihoods. When States impose bans, onerous licences or strict restrictions on street vendors, they severely undermine the rights of persons living in poverty to gain a living.[29]

40. While States can adopt reasonable regulations, law enforcement officials are often given wide discretion to determine zones, days and times when street vending activities are banned or restricted. This makes street vendors more vulnerable to abuse by law enforcement officials, private individuals or gangs. As a result, they often suffer from threats to their life and physical integrity, as well as from bribery, extortion and unlawful seizures of their wares.

41. When street vendors are harassed or bribed or their wares are destroyed, deep structural inequalities and power imbalances, communication and information barriers and a lack of access to legal representation make it nearly impossible for them to complain to police. In countries where street vending is illegal, individuals are too afraid to report mistreatment or harm to police for fear of being criminalized themselves. This is particularly acute with respect to street vendors who are members of vulnerable groups which face widespread discrimination and have historically had negative relationships with police and authorities, such as women, migrants and ethnic minorities.

42. Children who live or work on the street are particularly vulnerable to penalization measures. Street children lead lives defined by abuse, violence and fear, but because they are stigmatized as criminal or illegitimate they have little recourse to help or redress. Children on the street are exploited, trafficked, forced to perform hazardous work and recruited by armed forces and armed groups, and do not seek the assistance of authorities for fear of further penalization or abuse. In many cases children living in poverty are not registered at birth and as such cannot access basic services including primary education. With nowhere else to turn, they must undertake activities such as street vending, begging or panhandling in order to survive.[30] When these actions are made illegal, they are further forced into dangerous and abusive situations.

43. Absurdly, regulations that penalize behaviours associated with poverty and homelessness often impose fines that persons living in poverty are unable to pay. The illogical outcome of failure to pay a fine is often the imposition of a further fine, or even a prison sentence. In one country, for example, thousands were imprisoned in a single year because of non-payment of court-ordered fines.[31] The imposition of prison sentences for non-payment of fines on those unable to pay not only represents a considerable waste of State financial and administrative resources, but contributes significantly to perpetuating the social exclusion and economic hardship of persons living in poverty.

B. Urban planning regulations and measures

44. In several countries, the transformation of cities through gentrification policies, the privatization of social housing, redevelopment and adoption of zoning

[29] International Covenant on Economic, Social and Cultural Rights, art. 6.

[30] A/HRC/16/L.13/Rev.1, para. 3 (e).

[31] Irish Penal Reform Trust, "6,681 imprisoned for non-payment of fines in 2010", 2 February 2011.

laws have had the effect of forcing persons living in poverty to move away from inner-city urban areas, affecting their enjoyment of not only their right to adequate housing, but a wide range of rights.

45. As a means of making cities more "secure" and attractive to investors, developers and more affluent segments of societies, States are increasingly using zoning laws to preference land use which excludes the poorest and most vulnerable, such as gated communities, luxury or high-cost housing, and large sports infrastructure. Authorities are carrying out demolitions of entire neighbourhoods and removing residents for the purpose of "rehabilitating", "renewing" and "preserving" the "historical and cultural heritage" of the city,[32] or to make room for development and infrastructure projects.[33] As a result, these areas become too costly for persons living in poverty to return to, and they are relegated to housing in cheaper, less accessible, badly serviced and geographically remote neighbourhoods. In many cases, persons living in poverty are forcibly evicted without notice, are subject to violence and have their belongings damaged or destroyed. Persons living in poverty are rarely able to access redress and remedies after having been evicted, and are deprived of compensation, restitution and resettlement.

46. These policies not only severely impact the inclusiveness and diversity of cities, and increase the segregation and social exclusion of those living in poverty, but also represent serious obstacles to the enjoyment of rights to adequate housing, to work, to an adequate standard of living and to take part in cultural life.[34]

47. When they are moved away from urban centres, persons living in poverty become geographically remote from jobs, markets, education and health centres. This is turn restricts their access to city centres, public services and economic resources, and increases their opportunity and transportation costs, creating further barriers to gaining employment. Being distant from city centres also implies exclusion from the facilities and cultural life of urban areas, which further contributes to the feeling of isolation and exclusion that persons living in poverty experience.

48. The segregation of the poor from public spaces is further exacerbated by large-scale State and privatized infrastructure projects, particularly those connected with mega-events such as the Olympic Games or football World Cups. During such events, authorities often remove persons living in poverty from urban areas and relocate them in outlying suburbs, often by force, without ensuring alternative housing or access to remedies and compensation, in flagrant violation of their right to adequate housing. For example, in Seoul, preparations for the 2002 football World Cup included the banning of homeless persons from specified places in the city, and during the Olympic Games in 1988 homeless persons were detained in facilities outside the city. Action was also taken to remove or criminalize homeless persons during the Barcelona and Atlanta Olympic Games.[35] The practical effect of such initiatives is to completely displace the poorest and most marginalized and to

[32] Ayfer Bartu Candan and Biray Kolluoglu, "Emerging spaces of neoliberalism: a gated town and a public housing project in Istanbul", *New Perspectives on Turkey*, vol. 29 (2008), p. 16.

[33] See A/HRC/4/18, paras. 21-24.

[34] Universal Declaration of Human Rights, art. 27; International Covenant on Economic, Social and Cultural Rights, arts. 6, 11 and 15; Committee on Economic, Social and Cultural rights, general comments Nos. 7, 18 and 21.

[35] For these and other examples see A/HRC/13/20, paras. 18 and 25-27.

replace them with infrastructure for which they have no need and which they cannot access, such as hotels, sporting venues and office buildings.

C. Requirements and conditions for access to public services and social benefits

49. It is becoming increasingly common for States to impose strict requirements and conditions on access to public services and social benefits.[36] To justify these measures, States point to the need to make efficient use of public resources, improve the accuracy of targeting, avoid dependency, eliminate disincentives to work and deter abuse of the system. While these may be valid concerns, the impact of these measures is often completely disproportionate to the aim they seek to achieve. By imposing excessive requirements and conditions on access to services and benefits, and severe sanctions for non-compliance, States punish, humiliate and undermine the autonomy of persons living in poverty, exacerbating the challenges they face in overcoming their situation. Moreover, beneficiaries are kept in a state of uncertainty about their future and are unable to plan for the long term.

50. Support for these measures is not based on strong evidence of their effectiveness and economic efficiency, but rather on discriminatory stigmas and stereotypes, perpetuated by the media, that portray recipients of social benefits as lazy, dishonest and untrustworthy. Requirements and conditions are often underpinned by strong paternalistic attitudes: policymakers believe that they are acting in the best interests of persons living in poverty, who cannot be trusted to make decisions for themselves and their families.

51. These measures not only undermine beneficiaries' autonomy and prevent them from making their own choices, they also threaten their enjoyment of a number of human rights, including the right to participate in the decisions that directly affect them[37] and to be free from arbitrary or unlawful State interference in their privacy, family, home or correspondence.[38] Considering that non-compliance with excessive conditions and requirements results in exclusion from social benefits, those entitled to benefits live in constant anxiety and fear that their benefits will be withdrawn and, with them, their primary means of survival. The cumulative impact of living in such circumstances threatens the beneficiaries' right to enjoy the highest attainable standard of physical and mental health.[39]

52. In many countries, those entitled to social benefits are required to prove their entitlement by providing excessive amounts of documentation and disclosing irrelevant personal information. This is often a stressful and demeaning process for

[36] In the present report, the term "social benefits" is used to denote any benefit provided to individuals through a State's welfare, social security and social assistance systems, including transfers of cash, food or food stamps; disability or illness benefits, unemployment benefits, single parent or child allowances, non-contributory social pensions, housing assistance and education assistance.

[37] International Covenant on Civil and Political Rights, art. 25.

[38] Universal Declaration of Human Rights, art. 12; International Covenant on Civil and Political Rights, art. 17.

[39] Universal Declaration of Human Rights, art. 25; International Covenant on Economic, Social and Cultural Rights, art. 12. Committee on Economic, Social and Cultural Rights, general comment No. 14.

beneficiaries. Persons living in poverty face several obstacles and costs in gaining access to official documents. Documents may be expensive, and accessing them difficult for individuals who do not have a fixed address or lack proof of identity. This is particularly common in developing countries, where some of the most vulnerable and excluded people, particularly women and ethnic minorities, are not registered at birth. Obtaining documents also requires additional interactions with public officials who often lack sufficient understanding of the specific needs and circumstances of persons living in poverty. Anecdotal evidence shows that social benefit administrators are often inconsiderate or unsympathetic towards beneficiaries, who in addition to bureaucratic hurdles must overcome gaps in education, literacy and communication when seeking to comply with often complex and opaque requirements.

53. Onerous conditions are often attached to the receipt of social benefits in order to gain political support and assure the public that only the "deserving" poor are receiving support. For example, some conditional cash transfer programmes in low- and middle-income countries pay cash to heads of households (generally women) in exchange for their commitment to do something in return, such as enrolling children in school and ensuring their attendance, or participating in health programmes. Although these conditions do encourage investment in human capital, they also impose additional burdens on women, whose needs are often ignored in designing the programme. The lack of a serious gender approach may perpetuate gender stereotypes about traditional household roles and responsibilities, and trigger domestic violence. [40]

54. In some of these programmes, non-compliance with conditionalities results in the immediate cancellation of benefits, without first assessing the reasons for non-compliance. Often, this also means that the family cannot reapply to the programme, notwithstanding its needs and the reasons behind its failure to comply.

55. Conditionalities undermine the autonomy of beneficiaries and reinforce the stereotype that persons living in poverty are incapable of responsible decision-making. Evidence shows that with sufficient resources, poor households would make the same investments in education and health in the absence of conditionalities.[41] Thus, the additional administrative costs involved in designing, implementing and monitoring compliance with conditionalities would be better invested in extending and supporting public services.

56. Another condition that is increasingly being adopted by States is the requirement that those who receive unemployment, single parent or disability benefits participate in employment or training programmes. While transferring skills and knowledge required for reintegration into the workforce may be an important objective, often these programmes are implemented in the absence of enabling conditions, such as the provision of childcare facilities, or without consideration of structural barriers such as the realities of the current labour market, characterized by high unemployment and rapidly modernizing industries. Programmes place a heavy emphasis on "graduation" from benefits to employment, without giving due consideration to the actual needs of the beneficiaries and often without providing

[40] See A/HRC/11/9 and A/65/259.

[41] Armando Barrientos, "Conditions in antipoverty programmes", *Journal of Poverty and Social Justice*, vol. 19, No. 1 (2011), p. 19.

them with the assistance they need to obtain sustainable, productive and decent work.[42]

57. To ensure that beneficiaries comply with conditions and requirements, States often subject them to intensive examinations and intrusive investigations. Social benefit administrators are empowered to interrogate beneficiaries about a wide range of personal issues and to search their homes for evidence of fraudulent activity.[43] Beneficiaries are required to report regularly and disclose excessive amounts of information whenever it is demanded of them. In some countries, they must even submit to mandatory screening for drug use. They must also give their consent to authorities to scrutinize every aspect of their lives and to question their friends, colleagues and acquaintances.[44] Beneficiaries are encouraged to watch each other and report abuses to programme administrators through anonymous channels. These intrusive measures undermine beneficiaries' personal independence, seriously interfere in their right to privacy and family life, make them vulnerable to abuse and harassment, and weaken community solidarity.

58. The introduction of biometrics to social benefits systems means that in some States, beneficiaries must submit to facial recognition technology, finger imaging and iris scans.[45] These mechanisms give States extensive power and discretion to monitor and interfere in the lives of beneficiaries. The information obtained is frequently made accessible to other authorities for purposes other than those for which it was given, without beneficiaries' consent.[46] Such practices seriously threaten the protection of personal data and the right to access and control one's personal information.

59. Surveillance policies often treat beneficiaries like criminals and make them feel guilty, anxious and ashamed. While some mechanisms of control are necessary, they must comply with the requirements of reasonableness and proportionality. For example, evidence shows that the range of control and surveillance mechanisms employed by States in administering social benefits is clearly disproportionate to the prevalence of social benefit fraud. The overpayment of social benefits is often caused by administrative errors on the part of the State, rather than fraud by the beneficiary.[47] Where beneficiaries are responsible for overpayment, it is far more likely to be due to error than to fraud, and when fraud does occur, is it usually opportunistic, low-level fraud with respect to small, subsistence amounts of money. However, policymakers represent social benefit fraud to be a pervasive problem, channelling considerable resources to combat it. Political rhetoric disproportionately focuses on social benefit fraud over taxation fraud, the cost of which is a far greater

[42] Universal Declaration of Human Rights, art. 23; International Covenant on Economic, Social and Cultural rights, art. 6.

[43] Falkiner v. Ontario (Ministry of Community and Social Services) (2002), 59 O.R. (3d) 481 (C.A.), Factum of the Canadian Civil Liberties Association, p. 5.

[44] Ibid.

[45] For example, India is in the process of rolling out the Unique Identification Authority of India scheme, whereby individuals will be allocated a unique identity number tied to biometric data. See the Unique Identification Authority of India, "What is Aadhaar?" available at http://uidai.gov.in/index.php?option=com_content&view=article&id=57&Itemid=105.

[46] See, for example, Anemona Hartocollis, "Concern for vast social services database on the city's neediest", *The New York Times*, 16 June 2011.

[47] Tamara Walsh and Greg Marston, "Benefit overpayment, welfare fraud and financial hardship in Australia", *Journal of Social Security Law*, vol. 17, No. 2 (2010), p. 101.

burden on the State, and use instances of benefit fraud to influence the public discourse on poverty.[48]

60. Social benefit fraud and non-compliance are strongly condemned by the public and rigorously pursued by authorities.[49] Where fraud is established, it can result in the reduction of the individual's benefit to cover repayment of the defrauded amount, and the commencement of criminal proceedings against the individual.[50] When a beneficiary is convicted of fraud he or she may face a lifetime ban from the social benefit system. If beneficiaries have outstanding warrants they may have their social benefit cut off until the warrant is resolved or they are granted an exemption. These measures are extremely harsh and will have grave consequences for people already struggling with poverty and exclusion, perpetrating the disadvantage which induces them to rely on social benefits to begin with.

61. Being excluded from social benefit assistance has an especially harsh effect on women, who make up the majority of social benefit beneficiaries, and who generally hold primary responsibility for the care of children and maintenance of the household. If women are denied access to social benefits, it will generally have implications for the whole family. Furthermore, there is an increased likelihood that women will remain in or return to abusive relationships, or be forced to live in other vulnerable situations, if they are unable to access social benefits.[51]

62. Women are also exposed to State interference in their private and family lives in other respects. In particular, States' ever-increasing preference for child protection interventions overwhelmingly affects poor women specifically,[52] and persons living in poverty more generally. Research shows a clear and consistent link between child protection intervention and the disadvantage and marginalization of the families involved.[53] Poverty must not be mistaken for child neglect. Often States disproportionately target children in poor families for child protection proceedings instead of channelling their efforts towards addressing the root causes of child poverty.

63. Persons living in poverty will often struggle to navigate the child protection process, which in many countries is an extremely intrusive, adversarial process. Child protection interventions often fail to provide families with sufficient

[48] For example, in one country, it is estimated that in 2009/10, social benefit fraud and error cost the State £3.3 billion, whereas tax evasion cost the State £40 billion. See Deborah Padfield, "Fraud'n'error: tax avoidance and evasion", 20 July 2011. Available from www.opendemocracy.net.

[49] M.D.R. Evans and J. Kelley, "Are tax cheating and welfare fraud wrong? Public opinion in 29 nations", *Australian Social Monitor*, vol. 3, No. 4 (2001), p. 93.

[50] Walsh and Marston (note 47 above), p. 109.

[51] Mary E. Baker, "Double binds facing mothers in abusive families: social support systems, custody outcomes, and liability for acts of others", *The University of Chicago Law School Roundtable*, vol. 2 (1995), p. 13.

[52] Heather Douglas and Tamara Walsh, "Mothers and the child protection system", *International Journal of Law, Policy and the Family*, vol. 23, No. 2 (August 2009), p. 211; Naomi Cahn, "Policing women: moral arguments and the dilemmas of criminalization", *DePaul Law Review*, vol. 49 (2000), p. 817.

[53] In some countries, families on public assistance are four times more likely than others to be investigated and have their children removed from the family home on the basis of child maltreatment. See Douglas J. Berharov, "Child abuse realities: over-reporting and poverty", *Virginia Journal of Social Policy and the Law*, vol. 8 (2000), pp. 183-184.

information about the process, and in many countries there is no mandated free legal aid in child protection proceedings. As a result, there is a serious power imbalance between the State and families living in poverty, and a real risk that the judicial process may lead to unnecessary termination or limitation of parental rights or to other results detrimental to the child's best interests.

64. Although children have the right to grow up in a safe and nurturing environment, they also have the right not to be separated from their biological parents, unless such separation is in their best interests.[54] The focus of child protection proceedings should always be the best interests of the child, and not the penalization of their parents. Criminalization of parental neglect and abuse, while important, does not provide a meaningful solution to poverty and disadvantage.

D. Excessive and arbitrary use of detention and incarceration

65. Because law enforcement officials often use "poverty", "homelessness" or "disadvantage" as an indicator of criminality, persons living in poverty come into contact with the criminal justice system with a disproportionately high frequency. They also encounter considerable obstacles manoeuvring within or exiting the system. As a result, disproportionately high numbers of the poorest and most excluded are arrested, detained and imprisoned.

66. Across developing and developed countries, release on bail pending trial is subject to increasingly stringent and onerous conditions which require individuals to, for example, demonstrate their connections with the community, have a fixed address or permanent employment, report regularly to police or make a cash deposit or post a bond as guarantee. These requirements are impossible for the poorest and most marginalized to meet in the vast majority of cases and, as a result, they are more likely to remain in detention pending a trial. This dramatically increases the likelihood that they will ultimately be convicted: not only does it put them in a vulnerable position whereby they will be more inclined to accept unfair "plea deals" or to make admissions of guilt in order to secure a swifter release, it contributes to the deterioration of the detainees' appearance and demeanour, impedes their ability to liaise with lawyers or obtain character witnesses and causes them to lose their employment or social housing, thereby creating a disincentive for the court to give a suspended or community service sentence.[55]

67. The inability to access competent, comprehensive legal assistance presents a serious threat to the human rights of persons living in poverty. Without adequate representation or advice individuals are more likely to be convicted. While in detention they have no accessible means of protesting infringements of their rights, such as unsafe or unsanitary conditions, physical or mental abuse or lengthy delays, and there is a higher likelihood that they will be requested to pay bribes, which they will experience difficulties in paying.

68. The economic and social costs of detention and incarceration can be devastating for persons living in poverty. Detention not only means a temporary loss of income, but also often leads to the loss of employment, particularly where individuals are employed in the informal sector. The imposition of a criminal record

[54] Convention on the Rights of the Child, art. 9.

[55] E/CN.4/2006/7, para. 66.

creates an additional obstacle to finding employment. Detention and incarceration, even for minor non-violent offences, will often result in the temporary or permanent withdrawal of social benefits or the denial of access to social housing, for both the detainee and his or her family.[56]

69. Families are forced to use their limited income or sell assets to pay for bail, legal assistance, access to goods and services within penal facilities (e.g. food or telephone usage), or travel to visit the detainee. Children's education is also often disrupted when their parents are detained. In this context, detention represents a serious threat to the financial stability of the detainee's whole family and serves to perpetuate the cycle of poverty.

70. Detention and incarceration can also have serious health implications for the poorest and most vulnerable, who are likely to be subject to the worst treatment and conditions, including overcrowded cells, inadequate hygiene facilities, rampant disease transmission and inadequate health care. In some cases, overcrowding in prisons can have such a severe effect on detainees that the conditions may even amount to a form of cruel and inhuman treatment.[57]

71. Those who are poor and vulnerable are therefore likely to leave detention disproportionately disadvantaged financially, physically and personally. After their release they will have depleted assets, reduced employment opportunities, limited access to social benefits and severed community ties and family relationships, and will be subject to added social stigmatization and exclusion, diminishing even further their prospects of escaping poverty.

V. Conclusions and recommendations

72. **Poverty is a complex, multifaceted condition, which is only exacerbated and perpetuated by measures that directly or indirectly punish, segregate, control and undermine the autonomy of persons living in poverty. Such measures greatly impair the ability of persons living in poverty to enjoy a wide range of human rights and freedoms, deepening and prolonging the cycle of poverty and exclusion.**

73. **Often, States invoke grounds of public safety, health or security in an attempt to justify the restriction of human rights through penalization measures. However, human rights law establishes strict requirements for the imposition of limitations on individual rights. Any restriction on the enjoyment of human rights by those living in poverty must comply with several safeguards, including requirements that they be legally established, non-discriminatory and proportionate, and have a legitimate aim. The burden falls upon States to prove that a limitation imposed upon the enjoyment of rights by those living in poverty is in conformity with international human rights law.**

[56] See, for example, "No second chance: people with criminal records denied access to public housing", Human Rights Watch, 17 November 2005.

[57] *Brown v. Plata*, United States Supreme Court, No. 09-1233, 23 May 2011 (citation not yet available).

74. Penalization measures are often motivated by prejudices and negative stereotypes that ignore the realities of disadvantage and exclusion and fail to recognize the daily struggle of persons living in poverty to overcome the multiple obstacles they face. Poverty is not a lifestyle choice. Homeless persons would prefer safe, affordable, adequate housing to public parks and bus stations. Those struggling to survive on social benefits would rather have secure, regular, well-paying, productive employment than be subject to discrimination and live in constant fear that their entitlements will be taken away. One does not choose to live in poverty, and therefore should not be punished for that situation.

75. Measures that result in the penalization of those living in poverty do nothing to tackle the root causes of poverty and social exclusion. They serve only to entrench further the multiple deprivations faced by those living in poverty and create barriers to poverty reduction and social inclusion. Consequently, they greatly undermine the ability of States to comply with their obligations to respect, protect and fulfil human rights.

76. Rather than penalizing the poorest for their situation, States must take positive measures to bring down the legal, economic, social and administrative barriers that persons living in poverty face in gaining access to food, shelter, employment, education and health services, and which prevent them from enjoying their economic, social and cultural rights on an equal footing with the rest of the population and as part of an inclusive community.

77. The human rights obligation to ensure the satisfaction of, at the very least, minimum essential levels of all economic, social and cultural rights implies a responsibility to secure an adequate standard of living through basic subsistence, including by providing essential primary health care, basic shelter and housing and basic forms of education. Instead of dedicating scarce resources to costly penalization measures, States must direct the maximum available resources towards ensuring that persons living in poverty are able to enjoy all economic, political, social, civil and cultural rights.

78. Urban transformation, privatization, gentrification, beautification and redevelopment can seriously undermine several rights of those living in poverty and contribute to exclusion and stigmatization. As persons living in poverty are gradually pushed to the fringes of urban centres by these phenomena, their ability to access employment and public services and enjoy the right to participate in cultural life is threatened. The concept of adequacy in relation to the right to housing requires, among other elements, that factors such as the availability of services and infrastructure, affordability and accessibility be taken into account. It also requires States to refrain from forced evictions.

79. Public services and social benefits play an integral role in the lives of persons living in poverty, offering important support and assistance, particularly during times of economic and social hardship. While often these benefits are not sufficient to cover the needs of the beneficiaries and their families, they do provide an important form of support to which they are entitled, and without which they would not survive. States must refrain from imposing requirements and conditionalities that stigmatize, stereotype and penalize beneficiaries. Such measures only undermine the essential support that social benefits provide and create further obstacles for persons living in poverty.

80. **While preventing fraud is a legitimate aim, measures such as invasive surveillance policies, onerous conditionalities, excessive disclosure requirements and extensive policing in social benefit systems are disproportionate to their aim, stem from overt and covert discriminatory attitudes and practices, and only serve to reinforce the poverty experienced by beneficiaries.**

81. **Considering that detention, incarceration and institutionalization have such extensive and long-lasting negative effects on persons living in poverty, States must only have recourse to deprivation of liberty insofar as it is necessary to meet a pressing societal need, and in a manner proportionate to that need. The poorest and most vulnerable individuals in detention must have equal access to free, fair and efficient court procedures, and must enjoy the same rights to humane conditions and respectful treatment as more affluent segments of society.**

82. **In this context, the Special Rapporteur wishes to present the following recommendations:**

(a) **States shall take all necessary measures to eliminate all direct and indirect discrimination against persons living in poverty. States must refrain from adopting any law, regulation or practice denying or limiting the access of persons living in poverty to the enjoyment of all their rights, including economic, social and cultural rights. States must review national legislation in order to assess the existence of any discriminatory impact on those living in poverty and shall repeal or amend legislation that has the purpose or effect of impairing the equal enjoyment of rights by those living in poverty;**

(b) **In order to deter future discrimination, comprehensive anti-discrimination legislation in relation to persons living in poverty must be adopted. States shall ensure that discrimination on the basis of economic and social status is prohibited by law and the law applied by courts;**

(c) **States shall take special measures to protect those living in poverty from the violation of their rights by third parties. To this end, States shall:**

(i) **Carry out educational programmes and campaigns to sensitize the population to the multiple obstacles that persons living in poverty face in overcoming their situation;**

(ii) **Encourage the media to avoid biased reports and sensationalist coverage that perpetuates discriminatory stereotypes against persons living in poverty. To this end, States should promote ethical journalism and encourage the adoption of codes of conduct to end the negative portrayal of persons living in poverty, homeless persons, unemployed persons and social benefit recipients;**

(iii) **Ensure that private suppliers of public services, and other non-public entities, do not discriminate against those living in poverty. States shall adopt legislative measures to prevent and punish violations of the rights of persons living in poverty by private entities;**

(d) **States shall create an enabling environment to facilitate the participation of persons living in poverty in public life and in the decisions affecting their lives. To this end, States must identify and address the institutional impediments which prevent vulnerable and marginalized groups from fully participating in decision-making processes;**

(e) **Access to legal representation is of utmost importance and underpins all forms of penalization of persons living in poverty. States shall ensure quality legal aid for the poorest segments of society, not only for criminal proceedings but also with respect to issues which are particularly relevant for persons living in poverty, such as social benefit appeals, eviction and child protection procedures;**

(f) **States must ensure that all criminal and regulatory policies comply with human rights standards, including the principles of equality and non-discrimination and the presumption of innocence. Laws which specifically target the particular behaviours and actions of persons living in poverty amount to discrimination on the basis of economic and social status, and shall be repealed;**

(g) **States shall recall their obligations to ensure that everyone has the right to adequate housing as a component of the right to an adequate standard of living. This right requires States to ensure the affordability of housing and its accessibility to social services and infrastructure. They must also refrain from carrying out forced evictions. Where evictions are unavoidable, States shall ensure that they are conducted in a manner which respects the dignity and rights to life and security of those affected;**[58]

(h) **The design and implementation of social benefit systems must comply with human rights norms, including the rights of persons living in poverty to privacy and family life and to take part in the decisions that affect them. Surveillance policies, conditionalities and other requirements must be reviewed to ensure that they do not violate human rights obligations by imposing a disproportionate burden on those living in poverty. When collecting and processing information pertaining to beneficiaries, States shall ensure that they observe internationally accepted standards of privacy and confidentiality, and shall not disseminate such information to other authorities or use it for other purposes without the consent of the beneficiary;**

(i) **States must only have recourse to detention and incarceration when it is necessary to meet a pressing societal need, and in a manner proportionate to that need. States must ensure that arrest or detention does not disproportionately affect those living in poverty. To this end, States shall:**

(i) **Review all detention and incarceration policies and legislation, in order to identify and remove discriminatory laws and practices which disproportionately disadvantage persons living in poverty. Measures should be put in place to enable police, courts and public officials to adequately assess the potential effects of detention or incarceration in the light of each individual's circumstances;**

(ii) **Ensure that to the greatest possible extent, bail processes take into account the economic and societal circumstances of persons living in poverty.**

[58] See Committee on Economic, Social and Cultural Rights, general comment No. 7; Basic Principles and Guidelines on Development based Evictions and Displacement (A/HRC/4/18).